

1 Matthew B. Lehr (Bar No. 213139)
2 Suong T. Nguyen (Bar No. 237557)
3 David J. Lisson (Bar No. 250994)
4 Chung G. Suh (Bar No. 244889)
5 Jeremy Brodsky (Bar No. 257674)
DAVIS POLK & WARDWELL
1600 El Camino Real
Menlo Park, California 94025
Telephone: (650) 752-2000
Facsimile: (650) 752-2111

7 Attorneys for Plaintiff
VNUS Medical Technologies, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 VNUS MEDICAL TECHNOLOGIES, INC.,) LEAD CASE NO. C08-03129 MMC
13 Plaintiff,) CASE NO. C08-3129 MMC
14 v.)
15 BIOLITEC, INC., DORNIER MEDTECH) STIPULATION AND [PROPOSED]
16 AMERICA, INC., and NEW STAR LASERS,) ORDER TO EXTEND PATENT L.R. 4-2
17 INC. d/b/a COOLTOUCH, INC.,) DEADLINE FOR EXCHANGE OF
18 Defendants.) PRELIMINARY CLAIM
19 VNUS MEDICAL TECHNOLOGIES, INC.,) CONSTRUCTIONS AND EXTRINSIC
20 Plaintiff,) EVIDENCE
21 v.) AND ORDER THEREON
22 TOTAL VEIN SOLUTIONS, LLC d/b/a) CASE NO. C08-04234 MMC
23 TOTAL VEIN SYSTEMS,) (consolidated with C08-3129 MMC)
24 Defendant.)
25)
26)

1 WHEREAS, in its Pretrial Preparation Order (“Pretrial Order”) dated November 18, 2008
2 the Court adopted the parties’ schedule for pretrial dates as set forth in the Joint Case Management
3 Statements and Rule 26(f) Reports filed in the above-captioned cases on November 7, 2008;

4 WHEREAS, under the Pretrial Order the deadline for the parties to exchange their
5 Preliminary Claim Constructions and Extrinsic Evidence pursuant to Patent L.R. 4-2 is April 3,
6 2009;

7 WHEREAS, on December 16, 2008, the Court entered the parties’ Stipulation and Proposed
8 Order Regarding Scheduling of Preliminary Infringement Contentions, Preliminary Invalidity
9 Contentions, and Proposed Terms for Construction (Doc. Ent. 93), wherein the parties requested
10 extensions of the dates within which to exchange their Preliminary Infringement Contentions,
11 Preliminary Invalidity Contentions, and Proposed Terms for Construction pursuant to Patent L.R.
12 3-1, 3-3 and 4-1, but failed to request a corresponding extension of the Patent L.R. 4-2 disclosure
13 deadline, which is calculated from the date the parties exchanged their respective Patent L.R. 4-1
14 lists of Proposed Terms for Construction;

15 WHEREAS rescheduling the Patent L.R. 4-2 disclosure deadline to account for the prior
16 extension of dates will enable the parties to properly develop their positions and arguments related
17 to claim construction;

18 WHEREAS this modification to the case schedule will not otherwise affect the dates set in
19 the Pretrial Order, including the Claim Construction Hearing scheduled for August 17, 2009;

20 WHEREAS all previous time modifications in this case have related to: (1) the time for
21 filing responsive pleadings; (2) the continuance of the initial Case Management Conference; (3) the
22 hearing and briefing schedule on TVS’s Rule 12 motions; (4) the exchange of infringement and
23 invalidity contentions and proposed terms for construction; and (5) the deadline to complete
24 mediation.

25 NOW, THEREFORE, it is hereby stipulated and agreed by the respective parties, by and
26 through their counsel of record:

27
28

1. The deadline for the parties to exchange their Preliminary Claim Constructions and Extrinsic Evidence pursuant to Patent L.R. 4-2 shall be moved from April 3 to April 8, 2009;

2. All other deadlines in the Pretrial Order shall remain unchanged.

// Dated: March 27, 2009

Respectfully Submitted,

ATTORNEYS FOR PLAINTIFF
VNUS MEDICAL TECHNOLOGIES, INC.

By: /s/ Chung G. Suh
Matthew B. Lehr (Bar No. 213139)
Diem-Suong T. Nguyen (Bar No. 237557)
David J. Lisson (Bar No. 250994)
Chung G. Suh (Bar No. 244889)
Jeremy Brodsky (Bar No. 257674)
DAVIS POLK & WARDWELL
1600 El Camino Real
Menlo Park, CA 94025
(650) 752-2000/(650) 752-2111 (fax)
mlehr@dpw.com
nguyen@dpw.com
dlisson@dpw.com
gsuh@dpw.com
jbrodsky@dpw.com

Dated: March 27, 2009

ATTORNEYS FOR DEFENDANT BIOLITEC,
INC.

By: /s/ Michael N. Rader
Michael A. Albert (*pro hac vice*)
Michael N. Rader (*pro hac vice*)
Charles T. Steenburg (*pro hac vice*)
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
(617) 646-8000/(617) 646-8646
malbert@wolfgreenfield.com
mrader@wolfgreenfield.com
csteenburg@wolfgreenfield.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTORNEYS FOR DEFENDANT
NEW STAR LASERS, INC. d/b/a
COOLTOUCH, INC.

Dated: March 27, 2009

By: /s/ James W. Geriak
James W. Geriak (Bar No. 32871)
Allan W. Jansen (Bar No. 81992)
Mark Stirrat (Bar No. 229448)
ORRICK, HERRINGTON & SUTCLIFFE
LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558
(949) 567-6700/(949) 567-6710 (fax)
jgeriak@orrick.com
ajansen@orrick.com
mstirrat@orrick.com

ATTORNEYS FOR DEFENDANT
DORNIER MEDTECH AMERICA, INC.

Dated: March 27, 2009

By: /s/ Richard W. Miller
A. Shane Nichols (*pro hac vice*)
Richard W. Miller (*pro hac vice*)
KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, GA 30309-3521
(404) 572-4600/(404) 572-5100
snichols@kslaw.com
rmiller@kslaw.com

ATTORNEYS FOR DEFENDANT TOTAL
VEIN SOLUTIONS, LLC d/b/a TOTAL VEIN
SYSTEMS

Dated: March 27, 2009

By: /s/ John Karl Buche
John Karl Buche
Sean Sullivan
BUCHE & ASSOCIATES, PC
875 Prospect, Suite 305
La Jolla, CA 92037
Tel: (858) 812-2840
Fax: (858) 459-9120
jbuche@westerniplaw.com
sean@westerniplaw.com

1 Pursuant to General Order No. 45, I hereby attest that I have concurrence to file this
2 stipulation from all parties whose signatures are indicated by a "conformed" signature (/s/) within
3 this e-filed document.

4

5 _____ /s/ Chung G. Suh
6 Chung G. Suh

7 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

8

9 Dated: March 30, 2009

10


MAXINE M. CHESNEY
United States District Judge

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28